I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in un envelope er for Patenty, P.O. Box 1450, Alexandria, addressed to: Commission VA 22313-1450

28-2006 15:43 From:FRED HUTCHINSON CRC 2066676522

PATENT

Attorney Docket No.: 14538A-004010US

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

n re the application of:

Jonathan A. Cooper et al.

Application No.: 09/486,293

Filed: February 22, 2000

For: ISOLATION AND EXPRESSION OF

A DISABLED PROTEIN GENE MDABI AND METHODS

Customer No.: 20350

Examiner:

K. Gebreycsus

Art Unit:

1652

**DECLARATION PURSUANT** TO 37 CFR §1.132

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Dear Sir:

## I, Jonathan A. Cooper, declare as follows:

- Brian W. Howell and myself are named as inventors of the subject matter claimed in the above-identified patent application.
- I have read the outstanding Office Action, dated March 15, 2005, and understand that the Examiner has the following concerns.
- Brian W. Howell, Frank B. Gertler, and myself are co-authors of the publication 3. entitled, "Mouse disabled (mDabl): a Src binding protein implicated in neuronal development," The EMBO Journal 16(1):121-132 (1997), (hereinafter "the Howell et al. reference"). The Howell et al. reference has been cited by the Examiner as art under 35 U.S.C. § 102(a) anticipating claims 1-3, 5-8, 10-18 (as applied to previous claims 1-17).

Jonathan A. Cooper et al. Application No.: 09/486,293 PATENT

To: 12066236793

Page 2

- 4. Further, GcnBank Accession Number Y08379 submitted by Brian W. Howell and citing the Howell et al. reference has been cited by the Examiner under 35 U.S.C. § 102(a) as anticipating claims 1-3, and 5.
- 5. We have previously argued that the references are our own work and are not proper references under 35 U.S.C. § 102(a) and that Frank B. Gertler is not an inventor of the claims in the subject application.
- 6. The invention described and claimed in the subject application was conceived by Brian W. Howell and myself, and reduced to practice either by us or by others under our direction and supervision. Frank B. Gertler is not an inventor of the subject matter claimed in the present application.
- 7. Frank B. Gertler was a post-doctoral fellow who collaborated with co-inventor Brian W. Howell on the studies to localize mDab1 expression in whole mount murine embryos as described in the Howell et al. reference at page 130, right column, lines 31-45 and at page 125, lest column, lines 35-57. The study was conducted under the direction of Dr. Howell.
- 8. In summary, Brian W. Howell, Frank B. Gertler and myself were named as coauthors on the Howell et al. publication and cited in GenBank Accession No. Y08379, each
  having provided assistance in the studies described in the Howell et al. reference and Accession
  No. Y08379. As Frank B. Gertler provided support and assistance in carrying out a localization
  study to characterize the mDab1 protein conceived of and reduced to practice by Brian W.
  Howell and myself. He did not participate in the conception of, or the reduction to practice of
  the subject matter disclosed and claimed in the present application, he therefore is not an
  inventor.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

Jonathan A. Cooper et al. Application No.: 09/486,293

Page 3

PATENT

punishable by fine or imprisonment, or both, under Section 1001 of Title 19 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: Dine 28 2006

1

Jonathan A. Cooper

60652144 v1